

PROCEEDINGS OF THE MOUNTRAIL COUNTY  
PLANNING & ZONING COMMISSION  
Monday February 23, 2015

The Mountrail County Planning & Zoning Commission met on Monday, February 23, 2015 at the Mountrail County South Complex with the following voting members present: Rosemarie Bieri, Arlo Borud, Bill Klug, Trudy Ruland, Charlie Sorenson, Gary Weisenberger, Linda Wienbar, and via telephone Roger Hovda. Absent was Chase Lindberg. Also present were Teresa Captain, Mountrail County Deputy Tax Director, Wade Enget, Mountrail County States Attorney, Lori Hanson, Mountrail County Tax Equalization Director, Donald W. Longmuir Jr., Mountrail County Zoning Administrator/Planner, and Lisa Lee, Assistant Planning & Zoning Administrator.

Planning and Zoning staff advised Vice Chairman Borud that the first item on the agenda was a continuation from last month's meeting and that a motion was needed to remove the 8:30 a.m. public hearing from the table. Moved by Commissioner Ruland, seconded by Commissioner Klug to remove the 8:30 a.m. public hearing from the table. Upon roll call all present voted yes, motion carried.

Vice Chairman Borud called the 8:30 a.m. public hearing to order regarding the zoning request filed by Steve Hughes of RSI Chemicals, with concurrence from Foley Three LLC., landowner, for a conditional use permit to use land zoned industrial for the purpose of storage and distribution of oilfield production chemicals on a 20.9 acre, more or less, tract of land known as Block 1 Lot 2 of Palermo Industrial Park Second Addition (Palermo Township). Lori Hanson noted a correction needed to be made to the number of acres from 20.9 to a 1.65 acre tract out of the City of Palermo. There was also an email distributed from Nancy and Greg Helland regarding their concerns for the storage chemicals near their cattle and wanting to know what types of chemicals would be stored. Last month no one from RSI was present for the public hearing. Present for this public hearing was Steve Hughes, Jose Baldwin, Jr, and Jared Loveridge. Mr. Steve Hughes did not have the certified mail return receipts showing adjacent landowner notification.

Moved by Commissioner Ruland, seconded by Commissioner Weisenberger to table the zoning request filed by Steve Hughes of RSI Chemicals until the certified mail return receipts were mailed out and provided to Planning and Zoning staff. Upon roll call all present voted yes, motion carried.

Planning and Zoning staff informed the board that the 8:35 a.m. public hearing regarding the zoning request filed by Bryce Klasen of Citadel H2O, in concurrence with Steven Jensen, landowner, for a variance to pump water from a surface water source with temporary mobile equipment on an 80 acre, more or less, tract of land described as the S $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 28, Township 158 North, Range 94 West (Bicker Township) was published in error due to the fact that Bicker Township has their own zoning authority. The application fee will be refunded to Citadel H2O.

Planning and Zoning staff advised the board that there was an email received from Bryce Klasen of Citadel H2O requesting to remove the 8:40 a.m. public hearing from the agenda regarding the zoning request filed in concurrence with Vaughn Niemitalo, landowner, for a variance to pump water from a surface water source with temporary mobile equipment on a 40 acre, more or less, tract of land described as the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 26, Township 154 North, Range 91 West (Sikes Township).

Moved by Commissioner Weisenberger, seconded by Commissioner Bieri to approve the minutes from the January 26<sup>th</sup> 2015 Planning and Zoning meeting. Upon roll call, all present voted yes, motion carried.

Regarding building permit #1850, Mr. William Kuster had met with the County Commissioners regarding the abandonment of the section line. The County Commissioners advised him that there was no need to close the section line, but that Mr. Kuster would need to apply for a building permit and a variance to place his building 30 ft. from the section line. Moved by Commissioner Ruland, seconded by Commissioner Wienbar to approve building permit #1850 contingent upon approval of the variance. Upon roll call all present voted yes, motion carried.

Moved by Commissioner Weisenberger, seconded by Commissioner Bieri to approve building permits #1848, 1849, 1851, and 1852. Upon roll call all present voted yes, motion carried.

Chairman Borud called the 8:40 a.m. public hearing to order regarding the zoning request filed by Bryce Klasen in concurrence with Vaughn Niemitalo, landowner, for a variance to pump water from a surface water source with temporary mobile equipment on a 40 acre, more or less, tract of land described as the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 26, Township 154 North, Range 91 West (Sikes Township). Mr. Klasen had sent an email stating that this job would not be going forward and to remove this item from the agenda.

Moved by Commissioner Wienbar, Seconded by Commissioner Bieri to deny the zoning request filed by Bryce Klasen in concurrence with Vaughn Niemitalo, landowner, for a variance to pump water from a surface water source with temporary mobile equipment on a 40 acre, more or less, tract of land described as the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 26, Township 154 North, Range 91 West (Sikes Township). Upon roll call all present voted yes, motion carried.

Planning and Zoning staff requested the board take a look at staff item #10 regarding the definition of "immediate family" in regards to changing the subdivision regulations. State's Attorney Wade Enget stated that they used the Mountrail County Personnel Policy to find the definition of "immediate family" which includes the spouse, parent, child, sibling, grandparent, or grandchild. Also included is the spouse's parent, child, sibling, a child's spouse, foster child, or foster parents. Also discussed was the average size of lots when subdividing for agricultural or residential purposes and whether or not any changes needed to be made to the existing policy.

Vice Chairman Borud called the 8:45 a.m. public hearing to order regarding the zoning request filed by Phillip Newman, with concurrence from Roy Jensen, landowner, for an amendment to change land zoned agricultural to commercial for the purpose of establishing a trucking business on a tract of land described as consisting of 9.29 acres, more or less, known as the S $\frac{1}{2}$ S $\frac{1}{2}$  of Government Lot 2 Section 7, Township 154N, Range 89W (Oakland Township). Present for this discussion was Phillip Newman who provided the certified mail return receipts from adjacent landowners. Also present was Roy Jensen, landowner, and Oakland Township officers Randy Nichols, Mike Sauber and James Moen, Jr. A letter from Donald Bruhn was included stating concerns about trash and run off onto his property. Discussion included the intended use of the land for commercial or industrial purposes, storage of a winch truck, three and four axle trucks, flow back trailers, a flare stack trailer, and bumper pull trailers. Randy Nichols of Oakland Township contacted Planning and Zoning to support the project. Also mentioned was the possibility of offering employee housing which would require a conditional use permit for temporary housing. Mr. Newman stated that no work would be done on location; this would only be a storage facility for parking and transporting equipment from one location to another. Eventually Mr. Newman plans to build a shop and will not have more than three or four trucks. Further discussion included weight restrictions on township roads, use of county roads, the purpose of a commercial district and serving the shopping needs of the community (for example: hardware store, restaurants, hotels, etc...selling goods or a service) versus industrial zoning which includes a truck terminal as a permitted use, applying for an approach permit, existing access and culvert needs, and working with the county engineer. Mr. Nichols stated Oakland Township had no objection to the project as presented by Mr. Nichols.

Moved by Commissioner Sorenson, seconded by Commissioner Weisenberger to recommend to the Mountrail County Commission to deny the zoning request filed by Phillip Newman, with concurrence from Roy Jensen, landowner, for an amendment to change land zoned agricultural to commercial for the purpose of establishing a trucking business on a tract of land described as consisting of 9.29 acres, more or less, known as the S $\frac{1}{2}$ S $\frac{1}{2}$  of Government Lot 2 Section 7, Township 154N, Range 89W (Oakland Township) based on the fact that this project needs to be rezoned to industrial. Upon roll call, Commissioners Klug, Ruland Sorenson, Wienbar, Weisenberger and Borud voted yes, Commissioner Bieri voted no, motion carried. Mr. Newman will need to reapply as industrial, apply for a variance to be located away from a state/federal highway, and a conditional use permit if he intends to apply for employee housing, plus a bond in an amount to be determined.

Vice Chairman Borud called the 8:50 a.m. public hearing to order regarding the zoning request filed by Seth Mickelson of Iron Horse Water Solutions L.L.C., with concurrence from Jack Fladeland, landowner, for a variance permit to use land zoned industrial for the purpose of pumping slough water on a 20 acre, more or less, tract of land described as the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 27, Township 153 North, Range 91 West (Crane Creek Township). Present for this discussion was Seth Mickelson who did not have the certified mail return receipt cards from adjacent landowners. Discussion included the water will be trucked, access to the property across private land, landowners opposed to having people drive across their land, and still waiting for a developers agreement with easements in place from adjacent landowners. Mr. Halverson contacted the States Attorney to say

that he will be posting his land today. Mr. Mickelson would have to use Jack Fladeland's land only for access and approach. He would also need an approach permit from the county and a road haul agreement for use of the Crane Creek township roads as the water will be trucked and pipelined.

Moved by Commissioner Ruland, seconded by Commissioner Bieri to table this zoning request filed by Seth Mickelson of Iron Horse Water Solutions L.L.C., with concurrence from Jack Fladeland, landowner, for a variance permit to use land zoned industrial for the purpose of pumping slough water on a 20 acre, more or less, tract of land described as the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 27, Township 153 North, Range 91 West (Crane Creek Township). Upon roll call, all present voted yes, motion carried.

Planning and Zoning staff advised that Doug Mileski with Centerville was scheduled at 8:55 a.m. to provide an update on their project to the board, however, failed to dial in to the conference call. A master site plan was provided to the board with changes that needed to be addressed.

Board concerns included the definition of "immediate family" and space requirements when subdividing land to family members for agricultural or residential purposes. Also discussed were banking requirements for financing, existing active farmsteads, current exemption in zoning ordinances under agricultural zoning district, clarifying the definition of immediate family in the ordinances by using the Mountrail County Personnel policy. Moved by Commissioner Wienbar, seconded by Commissioner Ruland to adopt changes to the subdivision resolution to include the definition of immediate family.

Staff notified the board that a representative from Select Energy was scheduled to propose a question regarding a variance application pending for March 2015. No one from Select Energy was present.

Staff also notified the board of a letter from Corey Schmitt, a right of way manager for B. J. Kadrmass Inc, requesting clarification on approach permits and utility crossing permits granted for water companies who need to cross township roads, specifically in Austin Township. Mountrail County variances allow the company to divert the water from an area, however do not provide easements. Water lines cannot be laid within the 33 ft easement because that is for road right of way purposes only. Other companies have called with similar questions. A variance is a granting of a diversion point only. Companies are not clear about whom to ask for easements, to include county, township, and landowners and this information should be included with future variance applications.

In any case where an amendment, variance, conditional use permit, building permit or other application has not been recorded within one year from the date of approval, the document shall be null and void without further action from the Planning and Zoning Board or the County Commission. Staff advised that we also need a motion that all outstanding applications that have not been recorded have 30 days to be recorded, otherwise they will be brought to the March 23, 2015 meeting and then the Mountrail County Commissioners. A motion to adopt this language was moved by Commissioner Weisenberger, seconded by Commissioner Ruland. Upon roll call all present voted yes, motion carried.

Mountrail County IT Coordinator Garrett Volk presented Microsoft Surface Tablets to the Planning and Zoning Board along with a tutorial on how to set up and retrieve documents, websites, and maps related to the meeting.

Moved by Commissioner Bieri, seconded by Commissioner Wienbar to adjourn the meeting.

The next regular meeting of the Mountrail County Planning and Zoning Board is Monday March 23<sup>rd</sup>, 2015 at 8:30 a.m. at the Mountrail County South Complex, 8103 61<sup>st</sup> NW, Stanley, N.D.

Accepted and approved this 23<sup>rd</sup> day of March, 2015.

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Roger Hovda, Chairman  
Mountrail County Planning & Zoning Commission

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Donald W. Longmuir Jr., AICP  
Zoning Administrator